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ABSTRACT

The document, half of which consists of appendixes, presents a report to the Utah State legislature by the Social Services Interim Committee regarding child abuse and neglect. The problems that Utah faces with child abuse and neglect are summarized, and the appropriate steps currently being taken are outlined. National progress and trends in dealing with this problem are noted, and some possible alternatives for the state of Utah are suggested. Child abuse and neglect are defined, and their causes examined. Dealing with the problem is discussed in terms of prevention; reaction (detection and reporting); treatment; and the concept of a central registry (a central gathering place for reports of child abuse/neglect). Alternatives considered for Utah in dealing with child abuse/neglect include increased intervention work staff, a central registry, a crisis nursery, and a "sharing parents" program (in which model couples work with troubled families). The committee's specific recommendations for the state of Utah are outlined. Appendixes include a glossary; the requirements of P.L. 93-247 (which provides federal financial assistance for the prevention, identification, and treatment of child abuse); Utah statutes and legislation; and materials presented to the Social Services Interim Committee. (DLS)

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CHILD ABUSE AND NEGLECT

A Report to the Forty-Second Legislature Containing Recommendations of the Joint Social Services Interim Study Committee

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Office of Legislative Research
Research Report No. 24, December 1977

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PREFACE

This report contains information researched for the Social Services Interim Committee during their study of child abuse. The child abuse study was mandated by passage of H.J.R. 41, in the 1977 General Session.

The committee held four meetings beginning in August where child abuse was discussed. In addition to materials presented by staff, the committee heard testimony from representatives of the Division of Family Services and its policy boards, from the State Medical Examiner, from Juvenile Court Judges, from public groups concerned about the problem (PTA, Parents Anonymous and the League of Women Voters), and from various other individuals involved in child abuse programs.

This report is the product of staff research and with the exception of the specific recommendations listed at the end of this report, the material contained in the report does not reflect the recommendations or philosophy of the committee. The author accepts responsibility for the information in the report and for errors in its presentation.

INTRODUCTION

A 20-year-old mother who no longer wished to care for her thirteen-month-old baby, gave up the child. The baby had third-degree burns and subdural hematoma inflicted by the mother's boy friend, who beat and ran scalding water on the child when the baby cried before a bath. The baby sleeps only in a hunched up position and does not cry openly.

A law enforcement officer and Division of Family Services worker who went to a home to investigate a report of abuse were denied access and did not have a search warrant. When they returned with a warrant, they found a child with several fractured ribs and a broken leg caused by abuse.

A father who had been sexually molesting four daughters over a long period of time was finally reported when his fifth child, a twelve-year-old daughter, became involved in the abuse.

These incidents and others which have been covered by the press occurred recently in Utah. This report summarizes the problems that Utah faces with child abuse and neglect and outlines the steps currently being taken. It notes progress and trends nationwide in dealing with this problem and suggests some possible alternatives which Utah should consider.

DEFINITION

As with many complex problems, there is difficulty in defining terms which do not have universal meaning. Even the national groups which deal with child abuse and neglect have not developed consistent definitions. The Education Commission of the States (ECS) defines abuse as:

> ". . . any physical or mental injury inflicted on a child other than by accidental means, or an injury at variance with the history given of it."[1]

Neglect is defined by ECS as:

> ". . . a failure to provide, or a refusal to provide when financially able, by those legally responsible for the care and maintenance of the child; the proper or necessary support; education, as required by law; or medical, surgical or any other care necessary for the child's well-being."[2]

The difference between these definitions is the difference between committing an act and failing in an obligation. Abuse is caused by the committing of a violent act, while neglect is caused by failing to provide obligated care or support.

Utah's law combines the definitions of neglect. It defines child abuse and neglect as ". . . harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare."[3] It further defines harm or threatened harm as:

> ". . . any non accidental, physical or mental injury, sexual abuse, or negligent treatment or maltreatment including the

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[1]Education Commission of the States, Child Abuse and Neglect: Model Legislation for the States, Child Abuse and Neglect Project, No. 71 (Denver Education Commission of the States, 1976,), page 11.

[2]Ibid.

[3]55-16-1.5(1), Utah Code Annotated 1953, as amended.

> failure to provide adequate food, clothing, or shelter. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child, for that reason alone, shall not be considered a negligent parent."[4]

The Utah definitions are broad and allow considerable discretion in defining abuse and neglect. A copy of the Utah statute is contained in Appendix IV. To further complicate the picture, the Juvenile Court includes both neglect and abuse, as defined above, under the heading of the neglected child.[5] Thus everything from willfully leaving a child without supervision to severely injuring a child is classified as neglect, within the context of the juvenile court statutes. For the purposes of this report, the ECS definitions will be used and distinction will be made between abuse and neglect.

Reports of child abuse and neglect are classified as valid or invalid. A valid report is one where the evidence found after investigation indicates that child abuse or neglect has occurred. An invalid report is one where the subsequent investigation did not find evidence of abuse or neglect. Other terms which may be unfamiliar to the reader are defined in Appendix I.

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[4] 55-16-1.5(2), Utah Code Annotated 1953, as amended.

[5] 55-10-64(17), Utah Code Annotated 1953, as amended.

THE MAGNITUDE OF THE PROBLEM

In 1976, the Utah Division of Family Services received a report of child abuse and neglect on the average of one every one hour and 34 minutes. A valid report (a report which was later found to be true) occurred on the average of every two hours and 37 minutes. Dr. Serge Moore, State Medical Examiner, stated that deaths attributable to child abuse and neglect are occurring at the rate of one or two each month.[6] Clearly there is a problem in Utah.

Reliable statistics for reports of child abuse and neglect for the State of Utah are available only back to 1975. Earlier reporting statistics are available, but problems with duplicative reporting and incomplete information hamper their reliability. The chart on page 5 shows the rapid increase in child abuse and neglect reports since 1975. The increase from 1975 to 1977 based on these data is 52 percent.

During this period, the number of Division of Family Services (DFS) staff who investigate reports of abuse and neglect has declined. In 1974, DFS had 31.25 full-time equivalent (FTE) positions for intervention workers (workers who respond to referrals). In 1977, 30.25 FTE positions were assigned for intervention workers. Procedures and job descriptions for these workers have not changed substantially over this same period.

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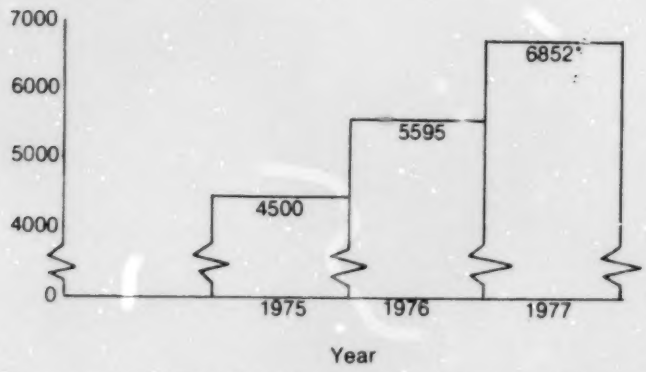
[6]Social Services Study Committee of the Utah Legislature, Minutes of the Social Services Study Committee, meeting of August 17, 1977, page 3.

Chart 1: Child Abuse and Neglect Reports - 1975 to 1977



* Projected from the six month total of 3,426. The actual total will likely be higher since July and August tend to have high rates of abuse and neglect. Also, the total for FY 1977 (July 1, 1976 to June 30, 1977) was 6,966.

Experts in the field of child abuse and neglect are quick to point out that these rapid increases in the reporting rate are most likely due to increases in public awareness of the problem rather than a rapid increase in the incidence of abuse and neglect. The State of Florida experienced a massive 55 percent increase in reports during a public education project which was conducted during 12 months in 1972 and 1973. The increase was attributed to the better understanding of the need and method for reporting abuse and neglect.

Statistics for 1975 and 1976 indicate that one in five reports is invalid. Of the valid reports, about one in ten cases involves abuse, the remainder are neglect cases. However, preliminary data for 1977 show an increase in abuse vs. neglect, notably in the Salt Lake City area.

It would appear that Utah also has problems with known, yet unreported child abuse and neglect. In July of 1977, Wasatch Opinion Research Corporation completed a social needs and services assessment for the Social Service Agencies of Davis County. One question asked Davis County residents was, "Have you ever reported that a child was abused or neglected?"

While 78.8 percent of those interviewed answered that they had never known or thought a child was abused or neglected, 21.0 percent had been aware of a case. Those who reported the case totalled 8.7 percent, while those who did not totalled 12.3 percent. If these percentages are representative of the State of Utah, less than half of those who are aware of child abuse and neglect subsequently report the case.[7] This would indicate that considerably more abuse and neglect could be occurring than is indicated by current reporting statistics.

The present Utah law requires "any person" to report suspected or known abuse or neglect to either the Division of Family Services or the local sheriff or police. Failure to report is punishable as a misdemeanor.

However, it appears that no one has ever been prosecuted in Utah for failure to report; and some experts feel that it would be counterproductive to do so.

Child abuse and neglect have been tied to later criminal or delinquent behavior. Girls who have been sexually abused at home often run away.[8] A 1974 study showed that 50 percent of abused and neglected children known to Los Angeles juvenile authorities later had criminal records as adults.[9] Another study conducted outside of Utah in 1975 found that of

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[7]Wasatch Opinion Research Corporation, "Assessment of Davis County Social Needs and Services," commissioned by Social Service Agencies of Davis County, September 1977, p. 35.

[8]"Taboo: Sexual Abuse of Children", Washington Star News, April 15, 1975.

[9]Donald F. Kline, Studies referred to in "What Will It Cost the Child If I Don't Report," address to the Invisible College Conference on Child Abuse. Dr. Kline is head of the Special Education Department at Utah State University in Logan, Utah.

100 consecutive juvenile offenders entering a detention facility, most had experienced physical abuse a week or two before the offense.[10] Records of students in the Utah State Industrial School showed 68 percent had histories of abuse or neglect.[11] None of these studies states categorically that abuse and neglect caused deliquency or crime. There is, however, a strong relationship between these problems.

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[10] Ibid.

[11] Ibid.

CAUSES OF CHILD ABUSE AND NEGLECT

Research in child abuse and neglect has failed thus far to pinpoint why some individuals abuse or neglect children while other individuals in similar circumstances do not. There is no clear evidence, for example, that any particular ethnic, income, or religious group is more likely than another to be abusive or neglectful. Although poor and nonwhite families are reported more frequently than other groups, some experts feel this may be due to the nature of the reporting system rather than a higher rate of abuse or neglect.

Studies have shown, however, that certain individuals are more likely to cause child abuse and neglect than the general population. Some characteristics of these individuals are isolation, lack of parenting knowledge, extremely high expectations for the child, poor self-image, and mental problems. There is a higher incidence of abuse and neglect involving children who were born prematurely or by Caesarian section, or who have birth defects.[12] Children resulting from difficult or unwanted pregnancies are also at greater risk. Researchers have found that abuse tends to be cyclical; children who have been abused tend to abuse their own children. Exceptional children (overly bright, mentally retarded, hyperactive, etc.) are also higher risks for abuse.

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[12]Experts note that a mother-infant bonding generally takes place during early contact between mothers and newborns. Hospital procedure for premature, C-section and some birth defective newborns often inhibits this bonding. Department of Health, Education and Welfare, Child Abuse and Neglect: The Problem and Its Management, 3 vols., 2:158.

Most abuse cases have several common ingredients. These include a child who is in some way viewed as different, a potential abuser, a stressful situation for the potential abuser, and a crisis or trigger incident. The child, the victim, may be exceptional or may be perfectly normal except in the abuser's perception. The potential abuser may be a parent, sibling, boyfriend, teacher, girlfriend, babysitter, or anyone who has supervision or contact with the child. The stressful situation may involve almost any problem, such as money, marital problems, health, or a difficult child. The crisis is the incident which triggers the violence. Neglect may also be a reaction to stress. Withdrawal from the problem is an alternative to violence.

The story was told at a recent child abuse seminar of a new mother who was left alone with a colicky baby while her husband went overseas. The baby cried virtually non-stop and prevented the mother from sleeping for three days. The mother was isolated and had no close friends or relatives. She finally sought help after she realized that she had become so upset that she had thrown the baby across the room.

Sexual abuse sometimes runs in families. Victims may later abuse their families or in the case of females, may allow or encourage a male to abuse her children. Sexually abused children show the greatest academic deficit and are most likely to be described as hostile or fearful among all abused or neglected children.[13]

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[13]Donald F. Kline, address to the Invisible College.

DEALING WITH THE PROBLEM

All 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam have enacted child abuse laws. These laws vary greatly in their coverage and approach. New York has developed a very detailed and comprehensive law. Colorado is viewed as one of the leaders in protective legislation and programs to deal with the problem.

Various groups have provided impetus to this drive to enact state legislation. The Education Commission of the States, the American Humane Association and the Department of Health, Education and Welfare have provided guidelines for legislation as well as numerous publications on the subject.[14] The United States Congress enacted Public Law 93-247 in January 1974. States must follow the guidelines established by Public Law 93-247 in order to receive federal funding for child abuse programs.[15] In order to qualify, states must enact laws which cover far more than simple reporting of abuse and neglect.

Dealing with child abuse and neglect is essentially a three step process involving prevention, reaction and treatment. There is, of course, some overlap in these steps. For example, it is difficult to differentiate

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[14] Child Abuse and Neglect: Model Legislation for the States, Child Abuse and Neglect Project No. 71, (Denver: Education Commission of the States, 1976); Vincent De Francis, J.D. and Carroll L. Lucht, J.D., Child Abuse Legislation in the 1970's, Revised Edition (Denver: The American Humane Association, 1974); Department of Health, Education and Welfare, Model Child Protection Act with Commentary, Draft (August 1977).

[15] See Appendix II for a brief outline of these requirements. The actual regulations may be found in The Federal Register, Vol. 29, No. 245, Part II, (The National Archives of the United States, Thursday, December 19, 1974).

between some treatments and prevention of another incident. This section defines prevention as programs aimed primarily at heading off a first incident, reaction as response to incidents of abuse or neglect, and treatment as actions to alleviate the problem after an incident occurs, including prevention of a repeat incident.

Prevention

In order to prevent an incident of abuse or neglect from occurring, potential participants must be identified and appropriate preventative treatments must be applied. As noted in the section on causes of abuse and neglect, some high risk groups can be identified. In addition, researchers are in the process of developing questionnaires to predict abuse or neglect. Although this research appears promising, the complexity of the problem hampers progress in this effort.

Preventative programs have been developed for some categories of high risk. Several hospitals and doctors are currently experimenting with revised hospital procedures to allow new mothers more time with their babies to facilitate infant-mother bonding. Several school districts in Utah have provided classes which teach parenting skills. Crisis nurseries have been developed to allow a mother under stress to leave a child for a brief period in order to recuperate. There is, however, little good data on effectiveness of prevention programs. It is in fact difficult to create a good experimental design to test such programs.[16]

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[16]The ethical problem of not providing treatment for some individuals in order to have a control group makes a true experimental design less appealing.

Even if high risk individuals can be identified, expense, difficulty of tracking, and privacy constraints complicate effective use of this information. Tracking of high risk individuals requires sophisticated data banks and high cost. Americans are extremely mobile. This fact, coupled with the propensity for abusive or neglectful parents to be isolated, further compounds the problem of tracking. With recent legislation and court decisions concerning freedom of information, individuals who object to being tracked will likely be able to have their names removed if no incident has yet occurred. The entire idea of such a data bank may not even be legal when statutory and constitution limitations are considered. As far as could be determined from the research materials, no state currently tracks high risk individuals except in the case of individuals who were abused and may later abuse their children and in some relatively limited experimental programs in which participation appears to be voluntary.

Reaction

In order to react to incidents of abuse or neglect, the event must be detected, reported and appropriate agency must be able to intervene.

Detection. Detection depends on some contact between the individuals directly involved in the abuse or neglect, and someone else who determines or suspects that the abuse or neglect has occurred. Determining what constitutes abuse or neglect is a difficult problem. Most states have broad definitions of abuse and neglect which allow judges, law enforcers and social workers a great deal of latitude. Some groups, notably the Institute of of Judicial Administration/American Bar Association (IJA/ABA), have advocated

strictly limited definitions as well as limited procedures.[17]

Reporting. After the child abuse or neglect incident is detected, someone must be willing to report the incident to the appropriate agency. Several problems exist which hinder the reporting effort. First, people may not know they can or are required to report incidents of this type. Requirements as to who must report vary from only physicians or interns in Arizona, to any person who knows or reasonably suspects an incident, as in Utah or Minnesota. Second, people may want to report but have no idea to whom or where to report. Third, others may wish to report the incident but do not want to involve law enforcement officers, not knowing that in most states the welfare department is either an alternative or the most appropriate choice. Finally, people may fear being sued or arrested if their report does not turn out to be valid. All states except Oklahoma have provided for civil and criminal immunity for those individuals who report in good faith.[18] Unless it can be proved that the reporter was acting in spite, for revenge, or for other malicious reasons, the reporter cannot be sued. The reporter's name is kept secret. In short, ignorance of reporting procedures and safeguards may prevent some individuals from reporting who may have reported otherwise. The survey done in Davis County this year shows the possible magnitude of the problem in Utah.[19]

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[17] An outline of many of these proposals may be found in this volume. National Task Force to Develop Standards and Goals for Juvenile Justice and Deliquency Prevention, A Comparative Analysis of Standards and State Practices, Vol. 6: Abuse and Neglect; 9 vols.

[18] A Comparison of the States' Child Abuse and Neglect Reporting Statutes, Child Abuse and Neglect Project No. 84, (Denver: Education Commission of the States, March 1976).

[19] See the discussion of this survey on pages 5-6, Wasatch Opinion, ". . .Davis County Social Needs and Services," p. 35.

Civil liability suits for not reporting abuse may be a factor in motivating prople to report, especially doctors. In 1970 a father in California sued four doctors and the city police for failure to report abuse of his child. The case was later settled out of court for $500,000. Five states (New York, Iowa, Arkansas, Colorado and Michigan) have recently added laws which define conditions for a person to held liable. More recently, in Landeros v. Flood, the California Supreme Court ruled that a doctor who did not report a child abuse victim was liable on the basis of medical malpractice and statutory negligence.[20]

Source of Reports. Determining which groups are reporting and which are not is important in conducting a public education program. Appeals can then be geared for specific groups. The table on page 15, compiled in 1974 for Salt Lake County, shows the source of reports of abuse and neglect. Although the medical professions are not broken out specifically, it is felt by some individuals involved in protective services that medical personnel under-report, with the possible exception of pediatricians. This has been attributed to fear of having to testify in court, lack of specific training, reluctance to violate patient-doctor privilege, and lack of time to follow through.

Florida's Experience. Florida conducted a massive public education program in 1972 and 1973 to familiarize Florida residents with child abuse and neglect problems and to promote reporting. Between September 1970 and September 1971, the Florida central registry received only 17 reports of abuse and neglect. Following several legislative changes in 1976, the Florida Division of Family Services (DFS) made administrative changes which

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[20]Neil J. Lehto, "Civil Liability for Failing to Report Child Abuse," Detroit College of Law Review, 1977(Spring 1977): pp. 136-137, 143.

established centralized reporting and coordination of protective services. Also, they began a statewide public service publicity campaign. A statewide hotline was set up to the central registry. These acts alone, with the attendant notice in news media, brought 19,128 reports into the registry within the next year--4,955 from the hotline and 14,173 from local offices. Beginning in September 1972 through December 1973, Florida conducted a massive publicity campaign. After spending approximately $50,000 for development of advertising materials, the radio and television spot announcements were aired as a "public service". The basic theme was, "Who would hurt a little child?" In addition, 50,000 posters were distributed by the Girl Scouts to professionals, including teachers, doctors, and social workers. In all these materials, the hotline number was conspicuously displayed.

The total number of reports increased 55 percent to 29,686. Reports over the hotline more than tripled. Most of this increase was attributed to

TABLE 1

NUMBER OF REPORTS BY SOURCE FOR CHILD ABUSE AND NEGLECT

SALT LAKE COUNTY, 1974

Source of Report	Number	Percentage Total
Neighbor or other person	589	35.9
Relative	346	21.1
Detention	21	1.3
Police	164	10.0
Juvenile Court	63	3.8
Schools	115	7.0
Other	341	20.9
TOTAL	1,639	100.0

the increased willingness of the public to report.[21] This example illustrates the potential effect of public education on reporting.

Intervention. All other reaction efforts are in vain if an appropriate agency cannot respond to reports of abuse or neglect. There is not clear consensus as to what agency is the most appropriate recipient of reports. While some states designate the local law enforcement agency as the responding office as in Nebraska, Arizona or Idaho, others designate that a social service or welfare agency should respond as in Alaska, Kentucky and Wyoming. Colorado has dictated that multidisciplinary teams be set up in each county to deal with abuse and neglect cases. These teams usually include social workers, doctors (usually a pediatrician), psychologists and a public attorney. Lawyers, teachers, health nurses, police and others may also be included. These teams continue to function as treatment for victims and victimizers begins. Kansas includes the juvenile court along with the social rehabilitation services. Others, including Utah, permit both law enforcement and a social service agency to react. All other states which have a dual system designate one or the other as having primary responsibility for protective services except Utah.[22]

Utah is similar to numerous other states in that it has developed a specialized protective service within the Division of Family Services. This approach includes use of intervention workers who investigate initial reports; social workers who actually work with families; foster homes for children removed for their own safekeeping; homemakers to alleviate stress, help in the

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[21] Department of Health, Education and Welfare, Child Abuse and Neglect. . ., 2:119-137.

[22] Child Abuse and Neglect in the States: A Digest of Critical Elements of Reporting and Central Registries, Child Abuse and Neglect Project No. 83, (Denver: Education Commission of the States, March 1976), pp. 2-13.

home, or supervise abandoned children in the home; and various other programs. Intervention workers are required by DFS policy to react to emergency situations immediately and to other situations within 48 hours. Utah has hotline service covering about 78 percent of the state's population. The remainder is covered by having DFS on call and available 24 hours a day with referrals coming from the law enforcement people or by having the law enforcement officers respond to the calls. Utah has also set up specialized multidisciplinary teams in Ogden and Salt Lake City.

Treatment

Treatment programs for child abuse and neglect vary greatly in their intensity, direction and scope depending on the type of incident or problem. The ultimate goal is of course to prevent the reoccurrence of the problem without any external enforcement. Meanwhile, steps are taken to prevent further damage and to repair any physical or emotional harm which may have come to the victim. It is a fairly well accepted practice to leave children within the home unless there is considerable danger in following this course. This is to prevent further emotional shock for the children. Even severely abused children will generally remain in their own home if given a choice.

Numerous programs have been developed throughout the nation to treat abuse and neglect ranging from occasional contacts by a social worker to placement of an entire family in a treatment village. Utah uses a multidisciplinary approach and sometimes refers families to Divisions other than Family Services, such as Mental Health or Health. The following is a representative group of these treatments including both government and volunteer sponsored programs. Most treatment programs are directed at the abuser or neglector rather than the victim.

Individual Counseling. Counseling sessions may occur in the home or in an office. They may be conducted by a lay person trained for counseling work, a social worker, physician or psychologist, depending on the state and the specific situation.

Group Counseling. Group sessions may be government or voluntarily sponsored. A well-known volunteer program is Parent Anonymous. Group sessions not only provide therapy by way of talking problems out, but also help reduce isolation of troubled families.

Homemaker Service. A homemaker is placed in a home to help with housework, act as a role model, be certain that a child is not reinjured, and/or various other tasks depending on the situation.

Role-modeling. Troubled families are placed in contact with model families who work with the family through counseling and providing a model. An example of this type of program is Utah's Sharing Parents Program, known as Super Parents in other parts of the country.

Central Registry

The central registry can provide an aid for all steps in the process of dealing with abuse and neglect. It can provide statistical information and evaluation data for preventive programs. It can expedite the reaction step. Finally, it can provide follow-up information for the treatment process. The effectiveness of the registry itself, however, is dependent on reporting of all appropriate information to that location.

A central registry is simply a central gathering place for reports of child abuse and/or neglect. Other information concerning the cases may also be accumulated here. A central registry may be used for any one or

all of the following purposes:

1. To accumulate statistical information.

2. To control the practice of hospital or doctor "shopping" where parents take the injured child to a different place after each incident to avoid detection.

3. To coordinate and monitor action in cases which require treatment.

4. To diagnose abuse or neglect by providing a past medical history.

5. To evaluate effectiveness of abuse and neglect programs.

6. To provide a data base for research into abuse and neglect.

7. To provide feedback to reporters.

Registers for abuse cases were established in Denver, Los Angeles and New York City in 1964 and in Cincinnatti and Milwaukee in 1965. By 1966 California, Illinois, Virginia and Maryland had statewide central registries and by 1974, 46 states had central registries.[23] As of March 1976, Utah was one of three states which did not have a central registry either by statute or created administratively.[24] Utah has, however, gathered selected statistical data for some time. The following excerpt from a H.E.W. publication in 1975 illustrates the wide variety in central registries.

> Registers vary in scope and purpose from those such as Indiana's which merely collects statistical reports from county welfare departments each month, to those like New York's, which is set up for research and policy planning and for the diagnosis evaluation, monitoring, and coordination of cases. In Georgia, the central register is a handful of 3 x 5 index cards in a shoebox-size file. In contrast, Tennessee's register will soon

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[23]Department of Health, Education and Welfare, Child Abuse and Neglect, 3:12.

[24]". . .Digest of . . .Reporting and Central Registries," pp. 15-21.

be expanded into a sophisticated, on-line, electronic data processing system, with remote terminals for input and for access via cathode-ray tubes and computer printouts. In some states, such as California and Illinois, reports are made to local agencies which forward copies to the central register; in others, such as Florida and New York, reports are made directly to the register. Although most central registers are the responsibility of the state social service agency, California's register is maintained by the State Department of Justice, Bureau of Criminal Identification and Investigation; and the District of Columbia's by the Youth Division of the Metropolitan Police Department. In South Carolina, each county's department of public welfare is mandated to have a central register of reports.[25]

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[25]Department of Health, Education and Welfare, Child Abuse and Neglect, 2:13.

ALTERNATIVES FOR UTAH

The Social Services Interim Study Committee has considered two alternatives with respect to legislation concerning child abuse and neglect: (1) Retain the present law, or (2) Provide a substantial revision of the present law including such items as a central registry.

The present Utah statutes are well respected and have generally worked well.[26] The present statute is in compliance with United States Public Law 93-247, which allows Utah to apply for and receive federal funding. Some individuals have complained about the inadequacy of the definitions within the statutes, but the general consensus is that the definitions are as good as any state's definitions. A more common complaint is the lack of a provision for a central registry.

There are, however, considerable costs associated with failure to deal with child abuse and neglect. As noted before, abuse and neglect are correlated with crime and deliquency. Also, there are costs in academic deficiencies associated with abuse and neglect. Dr. Donald Kline conducted a study in Utah and found that 27 percent of a group of children adjudged to be abused or neglected by the Utah Juvenile Court were in special education classes. Only 8 percent of those children not so adjudged were in special classes. The following table on page 22 summarizes some of his findings.

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[26]Sections 15-16-1 et seq. Utah Code Annotated 1953 as amended. Also parts of the Juvenile Court Statutes 78-3a-1 et seq. and the Family Services Statutes 55-156-1 et seq.

TABLE 2

COMPARISON OF ABUSED AND NEGLECTED POPULATION WITH GENERAL POPULATION - 1975

	Abused and Neglected	General Population
Learning Disabled	6.5%	4.9%
Emotionally Disturbed	15.9%	1.5%
Educable Mentally Retarded	4.3%	1.0%

In addition, 25 percent of sexually abused children were in classes for the emotionally disturbed. Dr. Kline notes that many times children are abused and neglected because they have problems, but he also notes that it appears that abuse and neglect may also be causing the problems.[27]

Abuse tends to be cumulative, that is, the longer it is allowed to continue, the more severe it generally becomes.

> "The death rate of physical abuse among children is approximately three to four percent, and the permanent injury rate approximately 25 to 30 percent unless treatment is initiated quickly."[28]

Long term costs for care of even one child brain damaged through abuse are astounding. The annual cost for care at the American Fork Training School is $15,330. This would amount to $766,500 over a 50-year life span, well worth preventing.[29]

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[27]Donald F. Kline, Address to the Invisible College.

[28]Ray E. Helfer, "Why Most Physicians Don't Get Involved in Child Abuse Cases and What to do About It," Children Today, Vol. 4, No. 3, May-June 1975, p. 29.

[29]A summary of costs for institutional care may be found in the Exhibits on page 48.

A significant improvement in the quality of child abuse and neglect programs could likely result from a revision of the present statutes. As noted earlier, a broad based central registry would probably help all phases of dealing with child abuse and neglect. Although a central registry may be established by administrative fiat, all model legislation for child abuse and neglect contains a registry provision. Statutory implementation insures that the Legislature has an opportunity to consider procedure for its use. Such a revision also may include a clarification of the role of the Division of Family Services in providing protective services.

The committee considered several items in connection with the child abuse study which could impact the budget. A brief discussion of these items follows with some of the pros and cons for each as well as factors which may complicate the issue.[30]

Central Registry. A discussion of what a central registry is and arguments in favor of its implementation have already been covered beginning on page 18. Concerns for privacy and possible abuses in its use head the list of the arguments against a central registry. Most statutes provide that any report, valid or invalid, of abuse or neglect go into the registry. Unless specific provision is made for expunging invalid reports, possibly innocent people may be on a list where they don't belong. Access to such information is controlled by law for release only to certain individuals; but if a data bank exists, possible violations may occur. In addition, the idea of such a secret data bank is repugnant to some individuals.

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[30]Various statements, facts and other information received by the committee during their meetings are found in the Exhibits on Page 48.

Cost of implementation and upkeep of such a registry is also of concern. The exact cost to implement a computerized system for the first year is not known at present, but figures ranging from $14,000 to $75,000 were discussed in committee meetings. In order to achieve maximum effectiveness, a registry must be staffed 24 hours, seven days a week, which creates a considerable cost.

Another concern is possible lack of use. Although Florida and some other states have had overwhelming use of their registries, South Dakota found that their registry is rarely consulted. Most protective service workers in South Dakota know each other and call each other directly to obtain information on prior occurrences.

The issue is further clouded by the difficulty in determining who should have access to registry information and under what conditions. Federal regulations restrict the number of persons who have access; but some feel that the list, which includes police investigating a case, grand juries, subjects of the report; and persons involved in bona fide research, is not restrictive enough. Some feel that doctors should not be allowed the "crutch" of relying on previous reports in order to determine whether or not they will report an incident. (Doctors argue, however, that without the registry they don't know what injuries to look for and they cannot gauge cumulative effects.)

Increased Intervention Work Staff. As noted earlier, the number of intervention workers has decreased from 1974 to 1977 while reports of neglect and abuse increased substantially over the same period. If the worker/report ratio reaches a point where the worker cannot cover all reports within a reasonable time, the quality of protective services suffers greatly. It appears that the ratio has reached a critical point, particularly in some

parts of Utah.[32] Additional workers are probably necessary. If, on the other hand, these extra positions could be squeezed from other programs with lower priority, it may be possible to cover the problem without additional cost.

Crisis Nursery. As discussed earlier, this program provides a dropping-off place for mothers to leave children in order to escape stress and recuperate. It may also be able to double as a battered wives center. Some fear that such a place may lead to indiscriminate dumping of children at the center. Experience of other states, where properly administrated programs exist, does not indicate this is a major problem, however.

Sharing Parents. This is a program which has been funded primarily by the federal government. It provides model couples to work with troubled families. Sharing Parents provide a role model for the object families and basically become their friends.

As in all such programs, it is important for the Legislature to examine the effectiveness of the program if it has been measured, or to require measurement of its effectiveness if it is being implemented for the first time. With the problem growing as fast as it is and with scarce resources, it may be unwise to fund a program whose effectiveness is unproven.

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[32]Urban areas are seeing a rapid increase in the number of reports. On the other hand, however, some workers in rural areas, although they do not have to cope with large numbers, must drive long distances to cover their territory. For example, two workers cover Uintah and Daggett counties. Whole days can be spent handling two or three cases.

RECOMMENDATIONS

The Social Services Study Committee recommends that a bill titled "An Act Relating to Mandatory Report of Child Abuse or Neglect" be approved by the Utah Legislature during the 1978 Budget Session.[33] In addition to requirements already in Utah statutes this bill provides that:

1. A report be made through the county attorney to the appropriate medical examiner when children die under suspicious circumstances.

2. Photographs and X-rays may be taken for evidence when appropriate individuals deem it necessary.

3. A child may be held in protective custody when a doctor or hospital administrator suspects that the child's life or safety is in danger.

4. The Division of Family Services has specific duties upon receipt of a report of abuse or neglect.

5. The only allowable privileged communication in cases of abuse or neglect is lawyer-client.

6. A central registry be established and that certain procedures be followed for use of the registry.

7. Law enforcement agencies notify the Division of Family Services of reports of child abuse or neglect.

Cost estimates indicate that the central registry would be the only item contained in the recommended bill which would require increased appro-

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[33]A copy of the bill approved by the committee may be found in Appendix III. The bill introduced to the Legislature will be slightly different since several technical errors have been detected. Provisions of the bill introduced will be identical.

appropriations. James Wheeler, Director of the Division of Family Services, said that the central registry would be the only item of the bill which would cost money. James Wheeler, Director of Family Services, said that the registry could be implemented on three levels:

1. A "hand crank" method using file cabinets which would cost approximately $14,000. This method would limit the ability of Division of Family Services to quickly compile reports and provide evaluation.

2. A batch method which would allow reports to be keypunched and placed in the computer but would not allow immediate retrieval of information. This would cost approximately $18,200.

3. A terminal retrieval system which would allow immediate access to computer information by way of cathrode ray tube terminals. This would cost about $74,000.

APPENDIX I

GLOSSARY

GLOSSARY

This glossary was adapted from Donald F. Kline and Mark A. Hopper, Child Abuse: An Integration of the Literature and Concept Analysis With Recommendations for Educational Research, (Logan: Department of Special Education), pp. 22-25.

ABUSED CHILD: The product of child abuse. Any person under the age of 18 years in the charge of a caretaker who is non-accidentally injured by an act of omission or commission.

AGGRESSIVE: Behavior characterized by offensive acts or attacks; action or activity carried out in a forceful manner.

BRUISE: An injury that does not break the skin but causes ruptures of small underlying vessels with resultant discoloration of tissues. Syn.: Contusion.

CARETAKER: Anyone responsible for the health and well-being of a child. A caretaker may be a parent, guardian, foster parent, teacher, baby sitter, or other person charged with the care of a child.

COMMISSION: A willful or volitional act.

CONFINED: A state existing when movement is restricted beyond accepted norms; bound, imprisoned, denied freedom, locked up, etc.

DAY CARE SUPERVISION: Arrangements for placement of a child in regular or specialized developmental day care, including: preplacement counseling, explanation of placement and payment procedures to family/parent, determination of most appropriate placement, preparation of parent/child for use of day care facility as required, replacement of child in another center due to changing circumstances: activities to ensure adequacy of the day care placement, including: periodic contacts with the provider, consumer, and the consumer's family in order to evaluate the child's adjustment/development and progress toward service goals, the effect of the day care service on the family, the continued need for day care, and the acceptability of the current placement in a licensed day care facility, group center, family home.

DESCRIPTOR: A property of a concept which may, in and of itself be insufficient but delimits examples of the concept; pictures, words, descriptions, characteristics, etc.

DIFFERENT STAGES OF HEALING: Injuries of differing ages.

EXTENDED DIAGNOSIS: The use of social, emotional, economic, or other environmental factors which tend to confirm or deny suspected cases of child abuse.

FOSTER CARE SUPERVISION: Activities which supervise, assist and coordinate the placement and supervision of a child in individual or group foster care; including related court activities as well as activities which return the child to the natural home.

FRACTURE: A break or rupture in a bone.

CHIP FRACTURE: A break in a bone which separates a small fragment from the main body of the bone.

CONCUSSION FRACTURE: A break in a bone resulting from impact.

GREEN STICK FRACTURE: An incomplete fracture of the long bones; principally the forearm.

LONG BONE FRACTURE: A break in one of the elongated bones supporting limb; e.g., femur, humerus.

SPIRAL FRACTURE: A break in a bone resulting from twisting or torque.

GROSS EXAMINATION: Physical examination without the aid of radiologic instruments or surgical entry.

GROUP CARE: A group home is defined as a children's residential group home that has the physical capacity, plans, and resources to care for a selected group of children on a 24-hour basis. Group homes are single dwellings in which there is on-going family life. The number of children permitted in the care of a group home shall be reduced from 12 by the number of the parent's own children regularly living in the home.

HEMATOMA: A swelling containing blood.

HOME MANAGEMENT - HOME MAKING: To assist all eligible individuals to obtain formal or informal inst uction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, child rearing and health maintenance, upon request.

INJURY: A harm or hurt, wound or maim which adversely affects health, looks, comfort, or success. A specific impairment of body structure or function caused by an outside agent or force which may be physical, chemical, or psychic.

INTERNAL INJURY: An injury to the internal organs, e.g., bowel, kidneys, spleen, liver, heart, lungs, mesentery.

MALNUTRITION: Faulty or inadequate nutrition. The state resulting from inadequate or improper feeding.

NEGLECTFUL: Giving little or no attention or regard to; careless; unattending; inadequate caring.

NON-ACCIDENTAL: Occurring by other than chance; e.g., an injury which is inconsistent with the stated cause.

OMISSION: The act of neglecting or leaving undone; neglect of duty; failure to act, etc.

PASSIVE: Not reacting visibly to something that might be expected to produce manifestations of an emotion or feeling.

PHYSICAL: Of or pertaining to the body.

PROTECTIVE SERVICE INTERVENTION: Activities necessary to protect a child from abuse, neglect, or exploitation to insure that no further harm will come to the child including: investigation of complaints, home evaluation, referral for services or removal of the child from the home if needed.

PSYCHOLOGICAL INJURY: That which adversely effects the emotional or intellectual well-being of a child.

PSYCHOTIC: Referring to mental disorders characterized by defective or lost contact with reality.

RADIOLOGIC: Of or pertaining to the use of radioactive substances in medicine; x-ray. Principally referring to x-ray diagnosis.

RETARDED: Limited in intellectual or emotional development.

ROLE REVERSAL: A pathological pattern of behavior wherein a child assumes the parent role of providing emotional support.

SCAPEGOAT: A person bearing the blame for others and/or receiving the brunt of punishment.

SCAR: A mark left by the healing of injured tissue. May be internal as well as involving the skin.

SHELTER CARE: Is defined as the provision of short-term family care in a community-based physically-unrestricting facility pending judicial disposition for those children who cannot remain in their present home due to unacceptable conditions.

SHORT TERM SHELTER CARE: Is defined as temporary care for a period, generally, not to exceed 14 days. In most cases this would allow staff time to adequately protect and evaluate the child and his family and to recommend child and family planning to the court in order for the court to make a disposition in the best interst of the child.

SIBLING: One of two or more persons having one common parent.

SUBDURAL HEMATOMA: A swelling containing blood and underlying the membrane which enfolds the brain.

THERAPEUTIC DIAGNOSIS: The identification of a disease or pathological state by removal of the patient from his usual setting, providing controlled treatment in a hospital or other therapeutic milieu, and comparing and contrasting observed differences.

TRAUMA: A wound or injury; especially damage produced by external force.

WITHDRAWAL: The act of retreating physically or emotionally to a less exposed position; characterized by a low frequency of social interaction.

APPENDIX II

REQUIREMENTS OF PUBLIC LAW 93-247

REQUIREMENTS OF PUBLIC LAW 93-247

The following summary of requirements for child abuse and neglect laws was taken from Child Abuse and Neglect: Model Legislation for the States, Child Abuse and Neglect Project No. 71 (Denver: Education Commission of the States, March 1976), pp. 4-6.

On January 31, 1974, Public Law 93-247 was enacted into law. The primary purpose of this law is to provide federal financial assistance for the prevention, identification and treatment of child abuse, and for a state of its political subdivisions to qualify for funding under Public Law 93-247, ten requirements must be met:

1. A state must provide for the reporting of known or suspected instances of child abuse and neglect.

2. A state must provide, upon the receipt of a report of known or suspected child abuse or neglect, an investigation of that report by properly constituted state authority. Each investigation must be initiated promptly; however, the properly constituted state authority must be an agency other than the agency, institution or facility involved in the acts or omissions, if the report of child abuse and neglect involves the acts or omissions of a public or private agency or other institution or facility. In addition, a state must provide, upon a finding of abuse or neglect, for immediate action to protect the health and welfare of the abused or n lected child and any other children who may be in danger in the same home.

3. In connection with the enforcement of child abuse and neglect laws and the reporting of suspected instances of child abuse and neglect,

a state must demonstrate that there are, in effect, administrative procedures, trained personnel, training procedures, institutional and other facilities and multidisciplinary programs and services sufficient to assure that the state can deal effectively and efficiently with chil. abuse and neglect. At a minimum this must include a provision for the receipt, investigation and verification of reports; a provision for the determination or treatment or ameliorative social service and medical needs; provision of such services; and, where necessary, recourse to the criminal or juvenile court.

4. A state must have, in effect, a child abuse and neglect law that provides immunity for all persons who in good faith report instances of child abuse or neglect (immunity to apply to both civil and criminal prosecution that might arise from such reporting).

5. A state must preserve the confidentiality of all records concerning reports of child abuse and neglect by having, in effect, a law that (a) makes such records confidential and (b) makes any person who permits or encourages the unauthorized dissemination of such records or their contents guilty of a crime.

6. A state must establish cooperation among law enforcement officials, courts of competent jurisdiction and all appropriate state agencies providing human services for the prevention, treatment and identification of child abuse and neglect.

7. In every case involving an abused or neglected child that results in a judicial proceeding, a state must provide that a guardian ad litem be appointed to represent the child in such proceedings.

8. A state must provide that the aggregate of state support for programs or projects related to child abuse and neglect shall not be reduced below the level provided during the fiscal year 1973.

9. A state must provide for public dissemination of information on the problems of child abuse and neglect, as well as the facilities and the prevention and treatment methods available to combat child abuse and neglect.

10. A state, to the extent feasible, must insure that parental organizations combating child abuse and neglect receive preferential treatment.

APPENDIX III

Statutes and Legislation

CHAPTER 16 - REPORTING ABUSE AND NEGLECT OF MINORS

55-16-1. MANDATORY REPORTING OF CASES OF ABUSE OR NEGLECT - INTENT OF LEGISLATURE. In order to protect children whose health and welfare may be adversely affected as a result of abuse or neglect, the legislature of the state of Utah provides for the mandatory reporting of all known or suspected instances of child abuse and neglect to the local city police or county sheriff or office of the division of family services by any person having cause to believe such case exists. It is the intent of the legislature that protective social services shall be made available in an effort to prevent further abuse or neglect and to safeguard and enhance the health and welfare of such children and to preserve family life whenever possible.

55-16-1.5. DEFINITIONS. As used in this act and only for the purpose of this act:

(1) "Child abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.

(2) "Harm or threatened harm" means any nonaccidental physical or mental injury, sexual abuse, or negligent treatment or maltreatment including the failure to provide adequate food, clothing, or shelter. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child, for that reason alone, shall not be considered a negligent parent.

(3) "Child" means a person under eighteen years of age.

(4) "A person responsible for a child's health or welfare" means the child's parent guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution.

55-16-2. PERSONS REQUIRED TO REPORT SUSPECTED ABUSE OR NEGLECT. Any person who knows or reasonably suspects that a child's health or welfare has been, or appears to have been harmed as a result of abuse or neglect shall report or cause reports to be made in accordance with the provisions of this act; provided that when the attendance of any person with respect to a child is pursuant to the performance of services as a member of the staff or as an employee of a hospital or clinic or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall report or cause reports to be made in accordance with the provisions of this act.

55-16-3. PROCEDURE FOR MAKING REPORTS - CONTENTS. An oral report shall be made as soon as possible by telephone or otherwise and may be followed by a report in writing to the local city police or county sheriff or office of the division of family services. Such reports shall contain the name and address of the child, if known by the person making the report, and any other information the person making the report believes might be helpful in establishing the cause of the abuse or neglect and the identity of the perpetrator; provided, that any report under this act shall be to an agency other than the agency, institution, or other facility involved in the acts or omissions and other than an agency which supervises, governs, or directs the affairs of any institution or facility involved in the acts or omissions.

55-16-4. IMMUNITY FROM LIABILITY OF PERSONS OR INSTITUTIONS MAKING REPORTS. Any person or institution making report in good faith pursuant to this act shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed. Any person or institution making a report in good faith pursuant to this act shall have the same immunity with respect to participation in any proceeding resulting from such report.

55-16-5. PHYSICIAN-PATIENT PRIVILEGE NOT GROUND FOR EXCLUDING EVIDENCE. The physician-patient privilege shall not be a ground for excluding evidence regarding the minor's injuries or cause thereof in any proceeding resulting from a report made in good faith pursuant to this act.

55-16-6. PENALTY FOR VIOLATION. Anyone knowingly or willfully violating the provisions of this act shall be guilty of a misdemeanor.

55-16-7. APPOINTMENT OF GUARDIAN AD LITEM. In every case involving an abused or neglected child which results in a judicial proceeding, the court shall appoint a guardian ad litem to represent the child in such proceedings.

ABUSED CHILDREN RESOLUTION

1977

GENERAL SESSION

Engrossed Copy

H. J. R. No. 41 By John E. Smith

D. Leon Reese

Gerald L. Woodmansee

A JOINT RESOLUTION OF THE 42ND LEGISLATURE OF THE STATE OF UTAH DIRECTING THE LEGISLATIVE MANAGEMENT COMMITTEE TO ASSIGN TO THE APPROPRIATE INTERIM STUDY COMMITTEE THE RESPONSIBILITY TO STUDY THE AREA OF ABUSED AND NEGLECTED CHILDREN AND REPORT BACK TO THE BUDGET SESSION OF THE 42ND LEGISLATURE RECOMMENDED LEGISLATION.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, many children in the State of Utah are suffering emotional and physical harm by persons responsible for this care; and

WHEREAS, more preventive services are needed in order to identify potentially abusive parents and to provide intervention and counseling before serious neglect or abuse occurs; and

WHEREAS, there is a need for greater awareness and support from the public and community agencies for reporting possible cases of child neglect and abuse; and

WHEREAS, there is a need for greater awareness and support from the public and community agencies in knowing what services are available; and

WHEREAS, there is a need to develop and coordinate standards for prevention and treatment of abused children; and

WHEREAS, there is a need to develop procedures necessary for the just and efficient prosecution of child abuse cases.

NOW, THEREFORE, BE IT RESOLVED, that the Legislative Management Committee assign to the appropriate interim study committee the responsibility to study the area of children abused

H. J. R. No. 41

and neglected by parents, guardians, public agencies, and others, and the implementation of the recommendations of previous child abuse studies.

BE IT FURTHER RESOLVED, that the interim study committee report back to the Budget Session of the 42nd Legislature its recommended legislation.

(Legislation proposed by the Division of Family Services)

Draft E
11/23/77

AN ACT RELATING TO MANDATORY
REPORTING OF CHILD ABUSE OR NEGLECT

S. No. ___ By ___

AN ACT PROVIDING FOR THE REPORTING OF CASES OF CHILD ABUSE OR NEGLECT, PROVIDING FOR PROTECTIVE SERVICES FOR CHILDREN, ESTABLISHING A CENTRAL REGISTER FOR REPORTS OF CHILD ABUSE OR NEGLECT, AND REPEALING CHAPTER 16, TITLE 55 UTAH CODE ANNOTATED, 1963, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, AND AS AMENDED BY CHAPTER 169, LAWS OF UTAH, 1975.

Be it enacted by the legislature of the State of Utah:

Section 1. Purposes. It is the purpose of this Act, through the complete reporting of child abuse or neglect to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child, to stabilize the home environment, to preserve family life whenever possible, and to encourage cooperation among the states in dealing with the problem of child abuse.

Section 2. Definitions. When used in this Act and for purposes of this Act only, unless the specific content indicates otherwise:

(a) "Child abuse or neglect" means the causing of harm or threatened harm to a child's health or welfare by a person responsible for the child's care.

(b) "Harm or threatened harm" means the causing of damage to the physical and emotional health and welfare of a child through neglect or abuse and includes non-accidental physical or mental injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, shelter, proper or necessary support, education as required by law, medical, surgical or any other care necessary for his physical and emotional well-being. Provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a neglectful parent.

(c) "Child" means a person under eighteen years of age.

(d) "A person responsible for a child's care" means the child's parent, guardian, or other person responsible for the child's care, whether in the same home as the child, a relative's home, a foster care home, or a residential

institution.

(e) "Unfounded report" means any report made pursuant to this Act which, after investigation, is not supported by some credible evidence.

(f) "Division" means the Division of Family Services.

Section 3. Persons Mandated to Report Suspected Abuse or Neglect. Whenever any person, including but not limited to, any physician, surgeon, osteopath, naturopath, chiropractor, or any other person licensed under the Medical Practice Act, registered nurse, licensed practical nurse, or any other person licensed under the Nurse Practice Act, podiatrist, dentist, pharmacist, optometrist, physical therapist, psychologist, social worker, marriage and family counselor, speech pathologist or audiologist, resident, intern, Christian Science practitioner, public school teacher or official, day care center worker or any other child or foster care worker or mental health professional has reasonable cause to suspect that a child has been subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which could reasonably be expected to result in abuse or neglect, he shall report without undue delay, or cause a report to be made to the nearest local city police, county sheriff's office, or office of the Division. Upon receipt of such report by the local city police or the county sheriff, they shall, without undue delay, notify the nearest office of the Division of such suspected child abuse or neglect.

Section 4. Mandatory Reporting to a Medical Examiner and a Post-Mortem Investigation. Any person or official required to report cases of suspected child abuse or neglect, under Section 3 of this Act, who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report that fact to the county attorney for referral to the appropriate medical examiner as provided in Chapter 20, Title 26, U.C.A. The medical examiner shall accept the report for investigation and shall report his findings to the police, the appropriate county attorney, the Division, and if the institution making the report is a hospital, to that hospital.

Section 5. Color Photographs and X Rays. Any physician, surgeon, medical examiner, peace officer or law enforcement official, or public health officer or official may take or cause to be taken, photographs of the areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child. The above persons may also take, or cause to be taken, photographs of existing abuse or neglect or conditions or circumstances that would reasonably be expected to result in abuse or neglect

of a child. Any photographs and/or X Rays taken shall be made available to the Court in any pending case and to the Division for the purpose of carrying out its duties under this Act.

Section 6. Protective Custody.

(a) A physician treating a child may take a child into protective custody without the consent of parents, guardians, or others exercising temporary or permanent control over the child when (1) he has reasonable cause to believe that the child's life or safety is in danger and (2) the parents are unavailable or do not consent to the child's removal from their custody.

(b) The person in charge of any hospital or similar medical institution may retain custody of a child reasonably suspected of being abused or neglected, when he believes the facts so warrant, whether or not additional medical treatment is required and whether or not the parents or other person responsible for the child's welfare request the child's return. Provided, however, that when a child is taken into custody under the provisions of paragraph (a) or (b) of this section, such custody shall not exceed 72 hours and that the juvenile court and the Division shall be notified immediately.

Section 7. Reporting Procedures.

(a) Reports of child abuse or neglect made pursuant to this Act shall be followed by a written report within 48 hours if so requested by the Division. The Division shall immediately forward a copy of this report to the statewide central register on forms supplied by said register.

Section 8. Duties of the Division Upon Receipt of the Report.

(a) The Division shall make a thorough investigation promptly upon receiving either the oral or the written report. The primary purpose of such an investigation shall be the protection of the child.

(b) The investigation may include inquiry into the child's home environment, his emotional or mental health, the nature and extent of his injuries, and his physical safety.

(c) The Division shall make a written report of its investigation to the state central register on forms supplied by the register for that purpose.

(d) The Division shall use an interdisciplinary approach whenever possible in dealing with child abuse and neglect referrals. For this purpose the Division shall convene appropriate interdisciplinary "Child Protection Teams" to assist it in its diagnostic, assessment, service, and coordination responsibilities. The Division representative or his designee shall serve as the team's coordinator. Members of the team shall serve at the coordinator's invitation and may include

representatives of health, mental health, education, and law enforcement agencies and other appropriate agencies or individuals.

(e) In any cases where the Division supervises, governs, or directs the affairs of any individual, institution, or facility involved in the acts or omissions of child abuse or neglect, the investigation of the report shall be made by an agency other than the Division.

Section 9. Immunity from Liability. Any person, official, or institution participating in good faith in the making of a report, the taking of photographs or the removal of a child pursuant to this Act, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions.

Section 10. Abrogation of Privileged Communications. Any privilege between husband and wife or between any professional person, except lawyer and client, including but not limited to physicians, ministers, social workers, counselors, hospitals, clinics, day care centers, and schools and their clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or neglect of a child or the cause thereof.

Section 11. Penalty for Failure to Report.

(a) Any person, official or institution required by this Act to report a case of suspected child abuse or neglect, who wilfully fails to do so shall be guilty of a Class C misdemeanor.

Section 12. The Guardian Ad Litem. In every case involving an abused or neglected child which results in a judicial proceeding, the court shall appoint a guardian ad litem to represent the child in such proceedings.

Section 13. Establishment of a Central Register.

A. Central Register.

(1) There shall established by the Division a statewide central register for child abuse or neglect reports made pursuant to this Act.

(2) The central register shall contain, but shall not be limited to: all information in the written report; record of the final disposition of the report including services offered and services accepted; the plan for rehabilitative treatment; the names and identifying data; dates and circumstances of any persons requesting or receiving information from the register; and any other information which might be helpful in furthering the purposes of this Act.

B. Expungment of Records.

(1) Information identifying the subject of an unfounded report shall

be removed from the central register forthwith.

(2) The record of the report in the central register shall be sealed 10 years after the subject's 18th birthday.

(3) At any time, subsequent to the completion of the investigation by the Division, but in no event later than 90 days after the receipt of the report, a subject of the report may request the administrator to amend or expunge the record of the report. If the administrator refuses or does not act within a reasonable time, but in no event later than 30 days after such request, the subject shall have the right to a fair hearing to determine whether the record of the report in the central register should be amended or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this Act. The appropriate Division office shall be given notice of the fair hearing. The burden in such a hearing shall be on the Division

(4) Written notice of any amendment or expungement made pursuant to the provisions of this Act, shall be served on each subject of such report and to the appropriate Division office.

(5) At any time, the subject of a report may receive, upon request, a report of all information contained in the central register; provided however, that the administrator shall prohibit the release of data that would identify the person who made the report or who cooperated in a subsequent investigation which he reasonably finds to be detrimental to the safety or interests of such persons.

Section 14. Confidentiality of Information. Reports made pursuant to this Act, as well as any other information obtained as the result of a report in the possession of the Division, shall be confidential and shall be made available only to:

(a) a police or law enforcement agency investigating a report of known or suspected child abuse or neglect;

(b) a physician who has before him a child whom he reasonably suspects may be abused or neglected;

(c) an agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report;

(d) any subject of the report, or the guardian of the subject person or his guardian ad litem if the subject of the report is a minor or is otherwise legally incompetent;

(e) a court, upon its finding that access to such records may be

necessary for the determination of an issue before such court;

(f) office of the public prosecutor or his deputies responsible for the prosecution of child abuse and neglect cases;

(g) any person engaged in bonefied research when approved by the Director of the Division.

Any person who wilfully permits and any other person who aids and abets the release of data or information obtained as a result of this act in the possession of the Division or contained in the central register shall be guilty of a Calss C misdemeanor.

Section 15. Chapter 15, Title 55, Utah Code Annotated, 1953, as amended by Chapter 197, Laws of Utah, 1969 and as amended by Chapter 168, Laws of Utah, 1975, and enacted by Chapter 166, Laws of Utah, 1965, is hereby repealed.

EXHIBITS

Materials Presented to the Social Services

Interim Committee

CHILD ABUSE AND NEGLECT - Summary of Positions

Group or Individual	ISSUES: Requiring Law Enforcement Agencies to make reports to DFS	Central Registry Established within Family Services	Staffing Increases for DFS, i.e., intake workers, treatment workers	Other Programs or Provisions as Specified Below
Division of Family Services	For	For	For	Reporting deaths to Med. Examiner, photos & x-rays, protective custody, duties and responsibilities section for DFS, Child Protection Teams, Confidentiality of reports (1)
Child Abuse and Neglect Advisory Council	For	For	For	See DFS recommendations
Family Services Board	For	For	For	See DFS recommendations
PTA Legislative Board		For	For	Child pornography, confidentiality of reports, freedom of reporters from liability (2)
Medical Examiner--Dr. Moore		For		Autopsies as standard procedure in unexplained child deaths
Utah Sheriffs' Assoc.	Against (3)			Charging of child abusers as standard procedure (4)
Utah Peace Officers' Assn	For with changes			Recommend that DFS notify local law enforcement agency immediately upon receipt of report of child abuse
Donald Kline - ECS Advisory Comm. on CAN	For (48 Hrs. reporting)	For	For	Urged prevention of child abuse which should have benefit in preventing long term child care costs
Judge Hermansen-Juvenile Court				Emergency removal, definition of abuse cases, parental rights, evidence rules
Judge Garff-Juvenile Court				Both civil and criminal action should be used. Recommended crisis nursery or coop nursery.
State Board of Education				Policies on teachers reporting - parenting education

1. See Division of Family Services Memorandum--William Ward to James Wheeler, dated Aug. 31, 1977.
2. PTA letter to Social Services Committee, dated Sept. 15, 1977.
3. Sheriff Mack Holley, Utah County, reported that some sheriffs felt that the information was not being shared by DFS.
4. Statement from Sheriff Redding, Box Elder County, dated October 18, 1977. This is not a statement from the Sheriffs' Association as a whole.

DIVISION OF FAMILY SERVICES
CHILD ABUSE AND NEGLECT ADVISORY COUNCIL
COUNCIL MEMBERSHIP

COUNCIL MEMBERS

Lloyd H. Nelsen
Division of Family Services

James McNamara, D.S.W.
University Medical Center

Paul Tinker
Attorney General's Office

Lowell Glasgow, M.D.
University Medical Center

Willis Sutliff, M.D.
Division of Health

Bill VanWagenen, Sgt.
S.L. Co. Sheriff's Office

Don R. Muller
Division of Mental Health

Keith Steck
Utah State Board of Education

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Children's Psychiatric Center

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Dorothy Houston, R.N.
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Ed Johnson, Sgt.
S.L.C. Police Department

Joe Gee, Sgt.
S.L. Co. Sheriff's Office

Betty Ruth Jensen, R.N.
Utah Co. Health Department

Gayle Gregerson, Ph.D.
Granite School District

STAFF:

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Division of Family Services

William A. Low
Division of Family Services

Pat Rothermich
Division of Family Services

STATE OF UTAH—DEPARTMENT OF SOCIAL SERVICES

SCOTT M. MATHESON
Governor
ANTHONY W. MITCHELL Ph.D.
Executive Director

DIVISION OF HEALTH
44 MEDICAL DRIVE
SALT LAKE CITY, UTAH 84113
AREA CODE 801

533-5848

Board of Health
Air Conservation Committee
Health Facilities Council
Medical Examiner Committee
Nursing Home Advisory Council
Water Pollution Committee

Office of Medical Examiner

LYMAN J. OLSEN, M.D., M.P.H.
Director of Health

SERGE M. MOORE, M.D.
Chief Medical Examiner

May 10, 1977

John E. Smith
State Representative
63rd District
143 South Hale
Grantsville, Utah 84029

Dear Representative Smith:

I am sorry that I have not had the opportunity to answer your letter sooner but I wanted to meet with other persons who are equally interested in the problem of child abuse and exchange opinions as to what is the best course to follow in the establishment of protective laws for children who are victims of child abuse.

Yesterday I had the opportunity to meet with Dr. Donald Kline of the Utah State University, with whom I have worked in the past regarding the problem, and with Dr. William Palmer of Primary Children's Hospital. We were members of a panel that discussed the topic of Child Abuse at yesterday's meeting of the Auxiliary of the Utah State Medical Association. All of us are in agreement that there is an urgent need to establish a central registry for the reporting of child abuse cases. This is something that I have been wanting to get started but in the past legislative session I was informed that the Department of Social Services would set in motion the procedures to establish a reporting system as soon as possible. As time went on, I realized that the proposed central registry had died somewhere in the legislative labyrinth.

By establishing a central registry, it would be easier to identify the abused child in the early stages, prior to the time when the child could be so severely injured that it would represent a burden to the State, or, worse, become a Medical Examiner's case.

There is also an urgent need for a better method of removing the child from the environment within which the abuse takes place, rather than allowing the child to remain in the custody of the abuser. It is my understanding that, at this time, the protective service personnel and police officers feel severely handicapped by not being able to remove a child based upon suspicion that the child is being abused and that they must prove this beyond a reasonable doubt before steps can be taken to adequately protect the child.

There are several cases on file in my office in which children have received injuries at the hands of the abuser that eventually led to death.

One must take into consideration the well-known fact that the abuser will continue to inflict physical, mental, emotional or sexual abuse on the child in an ever-increasing and more vicious manner. I am sure that you realize that these children must be removed from the abuser as early as possible so that the vicious cycle can be broken.

Through continued public education by members of my staff, as well as other interested physicians and social workers, the public is becoming more and more aware of the significance and presence of child abuse in the State of Utah.

I would like to offer my complete assistance to you in any way that you deem appropriate to insure that there are adequate laws adopted to protect children from abuse.

Respectfully,

Serge M. Moore, M.D.
Chief Medical Examiner

SMM:mfh

October 18, 1977

STATEMENT FROM SHERIFF REDDING (BOX ELDER COUNTY)

CHILD ABUSE

In my discussion with other law enforcement administrators in reference to child abuse and interfacing with the Division of Family Services, the fact that many times well-meaning agencies strictly look at the defendant's opportunity for social rehabilitation, the truth being that many times the defendants will not follow through with the available help because of either not recognizing their needs, the social structure and the lack of desire on behalf of the defendants. The general concern among law enforcement is that the majority of the child abusers should be formally charged, thus mandating professional sociological evaluations, professional background evaluations, and most important, the judicial order that should the defendant be formally incarcerated, the judge can impose a legal mandate that he will continue help and counselling. Also, many of the individuals with these problems are related in other crimes, alcohol, drugs, etc.

UTAH CONGRESS OF PARENTS AND TEACHERS, INC.

1037 East South Temple - Salt Lake City, Utah 84102
Telephone 801 - 359-3875
Mrs. Jack L. Smith, President

Branch of The National Congress

September 15, 1977

Social Services Committee
House of Representatives
State Capitol Building
Salt Lake City, Utah

RE: HJR #4 Child Abuse Interim Study

Gentlemen:

The Utah Congress of Parents and Teachers Legislative Board in our special meeting held September 7, 1977, unanimously endorsed and voted to support the concept of establishing a central state registry for child abuse and neglect, as explained by Legislative Research assistant Mark Allred at the Social Services Committee Interim meeting August 17, 1977.

We encourage the State legislative bodies to continue to provide for protective services for children. We see an urgent need for more and better trained protective service workers.

We recommend that the legislature consider including child pornography as abuse under the law. Child pornography is not a serious problem in Utah yet, and we wish to do all possible to keep it from becoming so.

It is important that anyone reporting child abuse and neglect in good faith to the proper authorities be protected not only from civil and criminal liability, as provided in present Utah law 55-16-5, but that they also be protected from harrassment, and that their identity remain anonymous, being made available only when it is determined that it is in the best interests of the child.

The Legislative Board of the PTA is composed of the following members:

Mrs. Glenn C. Hanni, coordinator
Lorraine Underwood
C. Bryce Draper
Dr. J. Lloyd Eldredge
Jean Humphrey
Gayle Judd
Joleen D. Standing
Pat Parkin
Coney Wild
Madelyn Player
LuDawn Williams
Darlene Hutchison

Sincerely,
Joleen D. Standing
Joleen D. Standing, Chairman Social Services & Health Committee

Statement of PTA, November 16, meeting of Social Services Study Committee.

The Utah Congress of Parents and Teachers endorses and supports the concept of establishing a central state registry for child abuse and neglect to be manned 24 hours a day, 7 days a week. The central registry would provide for:

1. Aid to identify abuse and neglect in the early stages before they become a statistic in the State Medical Examiner's Office.
2. Aid to detect parents who shop for a doctor to avoid detection.
3. Aid in determining whether or not it is safe to leave the child in the home.
4. Means of gathering information for evaluation of protective service programs and treatment programs.
5. Means of monitoring progress of child abuse and neglect cases.

Emphasis needs to be placed on preventive programs several of which are currently available and operating in the state. The statewide registry would more fully utilize the existing preventive programs. We spend millions of dollars in research on various diseases and yet we ignore child abuse which kills more children under the age of 5 than any known disease.

Preventive programs are important and helpful, but while we are watching these various programs, we urgently need protection for abused children. Some of our abused children have already become statistics. The PTA strongly urges passage of these protective measures.

Recommendations of the Utah State IWY Workshop on Child Abuse, June 24, 1977, Salt Lake City, Utah.

NAME OF WORKSHOP: Child Abuse

Chairperson, Marjorie McEntire

1. PROBLEM: Even with the increased awareness of family violence and child abuse there is inadequate information as to their extent despite the fact that 1973 statistics show that in the United States one fourth of all homicides were family incidents.

RECOMMENDATION:

1. Increase public education and expand treatment and prevention in all existing outreach programs.

2. PROBLEM: Child abuse and neglect continues to grow and is becoming a major social problem in the State of Utah.

RECOMMENDATIONS:

1. Appoint more juvenile court judges to deal with the cases in a more expeditious manner.
2. Expand the state Advisory Committee on Child Abuse to effect better coordination of existing resources and conduct a public awareness program.
3. Establish within the Division of Family Services an effective Central Registry in coordination with hospitals, pediatricians, other medical personnel and related agencies.
4. Follow through with the State Plan on Child Abuse and Neglect (June, 1975) which received approval of the Governor. Provide adequate funding for increasing, not only the number of social workers in the Division of Family Services, Protective Service, but provide specific training programs in neglect and abuse prevention.

Vote: For	262
Against	13
Undecided	15
TOTAL	290

COSTS OF INSTITUTIONALIZATION IN UTAH

	Cost per person	Source
Utah State Prison	$9,040 per year	Utah Prisoner Statistics 1977
Youth Development Center	$14,678 per year	Calculated by dividing FY 1977 average population of 165 into FY 1977 budget of $2,422,000
American Fork Training School	$42 per day $15,330 per year	Dr. Paul Sagers, Director
State Hospital		
Childrens' Unit	$51 per day $18,615 per year	Blaine Crawford, Asst. Superintendent
Overall	$46 per day $16,790 per year	

Mark Allred
Office of Legislative Research
August 5, 1977